

U.S. Department of Justice
Executive Office for Immigration Review
Immigration Court

Matter of

File A 45 031 495

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STANISLAW PSZENICZNY,) IN REMOVAL PROCEEDINGS
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Respondent) Transcript of Hearing

Before SARAH M. BURR, Immigration Judge

Date: April 22, 1998

Place: New York, New York

Transcribed by DEPOSITION SERVICES, INC. At Rockville, Maryland

Official Interpreter:

Language:

Appearances:

For the Immigration and
Naturalization Service:

Benita Sinha, Esquire

For the Respondent:

Mark Broydes, Esquire

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1 JUDGE FOR THE RECORD

2 Today is April 22, 1998, this is Immigration Judge
3 Sarah Burr, New York City. This is a removal proceeding in the
4 matter of Stanislaw Pszeniczny, file number A 45 031 495. The
5 respondent is present in court with his attorney.

6 JUDGE TO MR. BROYDES

7 Q. Counsel, would you state your appearance.

8 Counsel. Sir.

9 A. Yes.

10 Q. Would you state your appearance please for the
11 record.

12 A. My name is Mark Broydes, 299 Broadway, Room 1820,
13 New York, New York 10007.

14 JUDGE TO MS. SINHA

15 Q. And the Government attorney.

16 A. Benita Sinha.

17 JUDGE TO MR. BROYDES

18 Q. Sir, what is your client's best language?

19 A. It's Polish.

20 Q. Do you waive a Polish interpreter for purposes of
21 today's hearing?

22 A. Yes.

23 Q. Do you concede that your client was served with a
24 charging document dated June 24, 1997?

25 A. Yes.

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1 Q. That is Exhibit 1. Have you explained to your
2 client the nature of these proceedings and his rights there
3 under?

4 A. Yes. Yes, Your Honor.

5 Q. There are five factual allegations, do you waive a
6 reading?

7 A. Yes, Your Honor. As I said before, I think before
8 we got on the record, my copy of the Order to Show Cause is very
9 pale and I can't quite figure out.

10 JUDGE TO MS. SINHA

11 Q. Do you have another copy, Ms. Sinha?

12 A. I don't have a copy, Your Honor, but I can, oh,
13 actually I do have another copy, Your Honor.

14 JUDGE TO MR. BROYDES

15 Q. All right. Second call, on 4-95, counsel have you
16 had the opportunity to look at the Order to Show Cause?

17 A. I don't know what, Your Honor, it was filed and
18 counsel, there is also a Notice to Appear and Removal Proceedings
19 dated 6-24-97.

20 Q. Have you looked at those documents?

21 A. Yes, I looked at them.

22 Q. All right. There are five factual allegations.

23 A. Yes, well, my client would admit to the
24 truthfulness of the allegations number 1, number 2, number 3, he
25 would deny allegation number 4, and on number 5, I would think

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1 that that allegation should state that my client has been
2 convicted of violation of section of law which is an aggravated
3 felon or --

4 Q. You would prefer that that's what it say?

5 A. And it doesn't, there's an allegation like that in
6 that section.

7 Q. That's not in the factual allegations, counsel,
8 that's in the legal conclusions on page 1. Now, are you
9 admitting or denying allegation five?

10 A. Number five I would admit allegation, I mean I
11 would admit that my client has been convicted.

12 Q. All right. Now, you've been served with a
13 conviction record from the United States District Court from the
14 Northern District of New York, does that relate to your client?

15 A. Yes.

16 Q. All right. That's Exhibit 2. Any you've been
17 served with a copy of the immigrate visa face sheet, does this
18 relate to your client?

19 A. Yes, Your Honor.

20 Q. That's Exhibit 3.

21 JUDGE TO MS. SINHA

22 Q. Now, to the Government. Is this his first offense
23 of alien smuggling?

24 A. Your Honor, I'm not sure about that.

25 Q. Well, the two exceptions to alien smuggling as an

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1 aggravated felony. The first is whether or not it's the first
2 offense and it involved a spouse, parent, or child.

3 A. I don't have anything right now to indicate
4 whether it was his first offense or it's a second, a second
5 offense.

6 Q. All right. Well, the Government's going have to
7 get, run a rap sheet on him. All right?

8 A. Okay.

9 JUDGE TO MR. BROYDES

10 Q. And then counsel, it's your burden to show whether
11 or not there is a family relationship between your client and the
12 people who were smuggled in. All right, you're just going to
13 have to read the statute and figure out what is available to your
14 client. But the first thing I need to know is whether it's a
15 first offense or not.

16 JUDGE TO MS. SINHA

17 Q. So how long does the Government need to run the
18 rap sheet?

19 A. If you put it off in two weeks, and that's a
20 Monday, that should be fine.

21 Q. Two weeks. All right. May 6, 1998, 10 o'clock in
22 the morning.

23 MR. BROYDES TO THE JUDGE

24 Q. May 6th?

25 A. Yes, sir. Please advise your client the date and

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1 time of his next court appearance, of the *in absentia* consequences
2 of failure to appear, and the ten year bar on discretionary
3 relief. This hearing is adjourned.

4 HEARING CONTINUED

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